

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF LOUISIANA
MONROE DIVISION**

STATE OF LOUISIANA, *et al.*,

Plaintiffs,

v.

XAVIER BECERRA, in his official capacity as
Secretary of the United States Department of
Health and Human Services *et al.*,

Defendants.

Case No. 3:21-cv-03970

DEFENDANTS' REPLY IN SUPPORT OF STAY OF FURTHER PROCEEDINGS

This case is effectively concluded. Plaintiffs recognize that on January 13, 2022, the Supreme Court granted Defendants' request for a stay of the preliminary injunction that was previously ordered by this Court. In doing so, the Supreme Court resolved the merits of this matter in Defendants' favor. Briefly, the Court first held that "the Secretary's rule falls within the authorities that Congress has conferred upon him." *Biden v. Missouri*, --- S. Ct. ---, No. 21A240, 2022 WL 120950, at *2 (U.S. Jan. 13, 2022). Second, the Court concluded that "the interim rule is not arbitrary and capricious[.]" *Id.* at *4. Third and finally, the Court held that "other statutory objections to the rule fare no better," rejecting Plaintiffs' claims as to notice and comment, and consultation with state agencies, among others. *Id.* In sum, the Supreme Court found Plaintiffs' claims to be meritless and permitted the challenged rule to go into effect for facilities in the Plaintiff States. In this circumstance, the appropriate course would be for the parties to stipulate to dismissal of this action, pursuant to Federal Rule of Civil Procedure 41(a)(1)(A)(ii).

To the extent that Plaintiffs believe that further guidance is necessary, that guidance would now come from the Fifth Circuit. This Court accordingly should stay further proceedings pending the Fifth Circuit's ruling. A stay of proceedings pending appeal will preserve the resources of the

parties and the Court, while preventing the possibility of inconsistent rulings. There is no cognizable prejudice or hardship to the Plaintiffs in the interim, as the Supreme Court's stay decision has already made clear. And contrary to Plaintiffs' claims, *see* Pls.' Opp'n. at 5, "[t]he stay requested here is not indefinite," but would "last[] only so long as the appeal is pending[.]" *Walton-Lentz v. Innophos, Inc.*, No. 08-601, 2011 WL 1648668, at *2 (M.D. La. Apr. 29, 2011). For all these reasons, this Court should grant Defendants' Motion to Stay Further Proceedings, ECF No. 40.

Dated: January 18, 2022

Respectfully submitted,

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